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October 31, 2011

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The Honorable Lamar Smith
Chairman
Committee on the Judiciary
U.S. House of Representatives
2138 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Smith:

We write to request a hearing to address the wave of recent changes in state voting laws that make it more difficult for Americans to cast a ballot. A recent report released by the Brennan Center for Justice entitled "Voting Law Changes in 2012" has concluded that more than 5 million voters could be impacted by the recently enacted legislation.¹ The provisions that present the most serious concerns include:

- Provisions that limit voting by requiring the presentation of photo identification.²
- Laws that exclude the most common forms of identification (e.g., student IDs and Social Security cards), yet offer no alternate identification procedures for eligible voters.³
- Changes requiring proof of citizenship as a condition for voter registration.⁴

¹ Wendy R. Weiser & Lawrence Norden, Brennan Center for Justice, Voting Law Changes in 2012, *available at* http://www.brennancenter.org/content/resource/voting_law_changes_in_2012. [hereinafter Brennan Center Report].

² See Ala. Code § 17-9-30 (2011); H.B. 2067, 2011 Leg., Reg. Sess. (Kan. 2011) (amending and/or repealing multiple sections of existing code); R.I. Gen. Laws § 17-19-24 (2010) *amended by* P.L. 2011 ch. 201, § 1; H. 3003, 119th Gen. Assemb., Reg. Sess. (S.C. 2011) (amending multiple sections of existing code); Tenn. Code Ann. § 2-7-101-42 *amended by* S.B. 16, 107th Gen. Assemb., 2011 Reg. Sess.; S.B. 14, 82d Leg., Reg. Sess. (Tex. 2011) (amending multiple sections of existing code); 2011 Wis. Sess. Laws 23 (Assemb. B. 7, 2011 Leg., Reg. Sess.).

³ Of the seven states that have passed photo ID laws this session, *supra* note 2, the list of acceptable IDs vary in several respects. Tennessee expressly excludes student IDs from consideration. Only Alabama, Kansas and Rhode Island accept student photo IDs issued by state institutions of higher education. Only Alabama and Wisconsin accept a tribal ID card with a photo. Rhode Island is the only state that accepts non-governmental photo IDs. Because Social Security cards do not include photos, they would no longer be considered an acceptable form of ID.

⁴ S.B. 256, 2011 Gen. Assemb., Reg. Sess. (Ala. 2011); H.B. 2067, 2011 Leg., Reg. Sess. (Kan. 2011) (amending and/or repealing multiple sections of existing code); S.B. 352, 107th Gen. Assemb., 2011 Sess. (Tenn. 2011).

- Limitations or outright elimination of early voting opportunities.⁵
- Barriers to first time voters, such as the elimination of same day registration and limitations on voter mobilization efforts.⁶

These changes in state voting laws raise serious constitutional concerns under both the Equal Protection Clause of the Fourteenth Amendment and the Fifteenth Amendment. For example, requiring citizens to expend significant funds to obtain a photo ID to vote runs afoul of the prohibition on poll taxes set out by *Harper v. Virginia Board of Elections*.⁷ The Supreme Court in *Crawford v. Marion Co. Election Board* noted that elderly persons born out of the state, persons with economic limitations, homeless people, and even people with religious objections to being photographed may be burdened by photo ID laws.⁸ We are also concerned that these prohibitions violate the spirit and the letter of the Voting Rights Act of 1965,⁹ the Help America Vote Act,¹⁰ and the National Voter Registration Act.¹¹

The Brennan Center Report found that these changes in state election regulations will have a particularly significant impact on minority voters. The report concluded that African American and Hispanic voters were more likely to take advantage of early voting opportunities and register to vote through the types of voter registration drives now curtailed or eliminated by the new laws.¹²

⁵ H.B. 1355, 2011 Leg. Sess. (Fla. 2011); H.B. 92, 2011 Gen. Assemb. (Ga. 2011); H.B. 194, 129th Gen. Assemb., Reg. Sess. (Ohio 2011); S.B. 772, 107th Gen. Assemb., 2011 Reg. Sess. (Tenn. 2011); S.B. 581, 80th Leg., 1st Sess. (W. Va. 2011).

⁶ H.B. 1355, 2011 Leg. Sess. (Fla. 2011); H.B. 1570, 82d Leg., Reg. Sess. (Tex. 2011); H.B. 2194, 82d Leg., Reg. Sess. (Tex. 2011).

⁷ 383 U.S. 663 (1966); Alabama, Kansas, and Tennessee have enacted citizenship proof bills.

⁸ 553 U.S. 181 (2008). The court noted these possible unconstitutional outcomes; however, ruled that Indiana's law did not impose "excessively burdensome requirements" on any class of voters and that the state's interest in preventing voter fraud and safeguards of voter confidence justified the general burden imposed on voters.

⁹ 42 U.S.C. §§ 1973-1973aa-6. As you know, jurisdictions covered by Section 5 are required to submit changes in voting procedures to the Department of Justice before they can take effect to determine whether the new regulations have a retrogressive impact on minority voters. Both Texas and South Carolina have submitted their changes in election law for DOJ review, but the provisions have yet to be precleared for implementation. Section 5 of the Act requires that the United States Department of Justice, through an administrative procedure, or a three-judge panel of the United States District Court for the District of Columbia, through a declaratory judgment action "preclear" any attempt to change "any voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting..." in any "covered jurisdiction," available at http://www.justice.gov/crt/voting/sec_5/about.php. See DOJ Letter to Texas, available at <http://www.scribd.com/doc/66103249/Texas-Voter-ID-Letter-Sept-23-2011>; see also DOJ Letter to South Carolina available at http://www.wltx.com/news/pdf/2011-2495_ltr.pdf.

¹⁰ Help America Vote Act, 42 U.S.C. 15301 (2002).

¹¹ National Voter Registration Act, 42 U.S.C. 1973gg, et seq. (1993).

¹² See Brennan Center Report, *supra* note 1, where researchers note that among the most controversial voting changes have been the partial or full elimination of early voting on Sunday, which has been criticized for aiming squarely at large African-American turnouts, and to a lesser extent Hispanic communities, typically executed by church and religious groups.

Most critically, the Report noted that many of the new voter identification laws do not allow voters to present many forms of identification frequently used by minorities, the elderly, and the young. For example, the new Texas law allows for the use of a concealed carry gun permit to vote, but fails to recognize student IDs, Texas Veterans' Administration identification and even Congressional identification.¹³ Further, Texas citizens must also spend \$22 to obtain a birth certificate or up to \$145 to obtain a passport to present the documentation necessary to acquire a form of ID required to cast a ballot.¹⁴

Numerous examples of the anti-democratic impact of these new laws have already come to our attention. A 96-year old woman was denied a voter ID under Tennessee's new law even though she has voted in all but two elections over the last 70 years and produced a rent receipt, a copy of her lease, her voter registration card, and her birth certificate. Because her birth certificate had her maiden name, Dorothy Alexander, rather than her married name, officials demanded her marriage certificate which she did not have.¹⁵ Another 91-year-old woman in Tennessee was unable to receive her ID because she was physically unable to stand in the long and crowded lines at the DMV with her cane.¹⁶ Two days ago, we learned of an 86-year-old United States veteran and retired print shop worker who had to pay for a voter photo ID.¹⁷ A young voting age citizen seeking a free ID in Wisconsin was questioned by a Wisconsin DMV employee about how much money he had in his bank account and how much activity his bank account experienced.¹⁸ It has also been reported that in Wisconsin, the state's DMVs have been charging citizens improperly for an ID because employees were instructed not to clarify for citizens that the ID's were free.¹⁹

¹³ S.B. 14, 82d Leg., Reg. Sess. (Tex. 2011).

¹⁴ New State Voting Laws: Barriers to the Ballot? Hearing Before the Subcomm. on the Constitution, Civil Rights, and Human Rights of the S. Comm. on the Judiciary, 112th Cong. (2011) (statement of Judith Brown Dianis, Co-Director, Advancement Project). The cost of obtaining valid voter identification can present a significant barrier to participation. Documentation such as a birth certificate, naturalization papers, or a social security card are typical examples of documents required for obtaining voter identification. According the Brennan Center, some of the documentation necessary to prove eligibility can cost up to \$200.00. Brennan Center For Justice, Cast Out 20-21 (2006), available at http://brennan.3cdn.net/1d92eeaf94232a9031_zdm6b6okf.pdf.

¹⁵ Ansley Haman, *96-year-old Chattanooga resident denied voting ID*, Chattanooga Times Free Press, October 5, 2011, available at <http://timesfreepress.com/news/2011/oct/05/marriage-certificate-required-bureaucrat-tells/>.

¹⁶ Joan McCarter, *Elderly Tennessee voter can't register to vote because she can't stand in line*, Daily Kos, October 24, 2011, available at <http://www.dailykos.com/story/2011/10/24/1029638/-Elderly-Tennessee-voter-cant-register-to-vote-because-she-cant-stand-in%C2%A0line?via=search>.

¹⁷ Sam Stockard, *Veteran had to pay for voter photo ID*, The Daily News Journal, October 26, 2011, available at <http://www.dnj.com/article/20111026/NEWS05/110260320/Veteran-had-pay-voter-photo-ID?odyssey=nav/head>.

¹⁸ WePartyPatriots, *VIDEO: WI DMV Tells Boy His Bank Account Doesn't Show Enough 'Activity' To Get a Voter ID*, Daily Kos, July 26, 2011, available at <http://www.dailykos.com/story/2011/07/26/998944/-VIDEO:-WI-DMV-Tells-Boy-His-Bank-Account-Doesn%E2%80%99t-Show-Enough-%E2%80%9CActivity%E2%80%9D-To-Get-a-Voter-ID>.

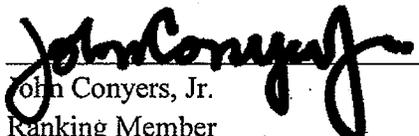
¹⁹ James B. Kelleher, *Wisconsin official told DMV not to push free voter ID cards*, Reuters, September 8, 2011, available at <http://www.reuters.com/article/2011/09/08/us-wisconsin-voter-id-idUSTRE78713P20110908>. The cost of obtaining valid voter identification can present a significant barrier to participation. Documentation such as a birth certificate, naturalization papers, or a social security card are typical examples of documents required for obtaining voter identification. According the Brennan Center, some of the documentation necessary to prove eligibility can cost up to \$200.00. Brennan Center for Justice, Cast Out 20-21 (2006), available at http://brennan.3cdn.net/1d92eeaf94232a9031_zdm6b6okf.pdf.

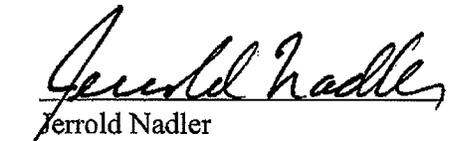
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Assertions that these broad restrictions are needed to counter pervasive voter fraud do not appear to be supported by the evidence. For example, studies have found that only 24 people were convicted of, or pled guilty to, illegal voting at the federal level between the two Presidential and Congressional elections leading up to the 2008 elections.²⁰ Moreover, only 19 instances of ineligible voting were determined at the state level.²¹

The right to vote is the foundation of all our other rights. In view of the gravity of this situation, we urge you to schedule hearings soon to address an issue so critical to our democracy. As voting rights experts have noted, the recent stream of laws passed at the state level are a reversal of policies – both federal and state – that were intended to combat voter disenfranchisement and boost voter participation.²² Ensuring the right to vote should not be a partisan issue; rather it is the very linchpin of our democracy.

Sincerely,


John Conyers, Jr.
Ranking Member
Committee on the Judiciary


Jerrold Nadler
Ranking Member
Subcommittee on the Constitution

cc: Hon. Trent Franks, Chairman, Subcommittee on the Constitution

²⁰ Eric Lipton & Ian Urbina, *In 5-year effort, scant evidence of voter fraud*, The New York Times, April 12, 2007, available at <http://www.nytimes.com/2007/04/12/washington/12fraud.html>.

²¹ *Id.*

²² See American Civil Liberties Union, *2011: Voting Rights Attack in State Legislatures*, "The history of our nation is characterized by a gradual expansion of voting rights. These discriminatory restrictions suppress the vote and turn back the clock," available at <http://www.aclu.org/maps/2011-voting-rights-under-attack-state-legislatures>; see also Brennan Center Report, *supra* note 1, "... the extent to which states have made voting more difficult is unprecedented in the last several decades . . . [M]any of these laws will disproportionately impact low-income and minority citizens, renters, and students—eligible voters who already face the biggest hurdles to voting."

BRENNAN CENTER FOR JUSTICE

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OVERVIEW: VOTING LAW CHANGES IN 2012

A shift that could change the electoral landscape is underway – the tightening of restrictions on who can vote and how Americans can vote. Going into the 2012 elections, there will be millions of Americans who will find that since 2008, there are new barriers that could prevent them from voting.

SUMMARY

In the first three quarters of 2011, state governments across the country have suddenly enacted an array of new laws and policies making it harder to vote. Some states require voters to show government-issued photo identification, often of a type that as many as one in ten voters do not have. Other states have cut back on early voting, a hugely popular innovation used by millions of Americans. Two states reversed earlier reforms and once again disenfranchised millions who have past criminal convictions but who are now taxpaying members of the community. Still others made it much more difficult for citizens to register to vote, a prerequisite for voting.

These new restrictions fall most heavily on young, minority, and low-income voters, as well as on voters with disabilities. This wave of changes may sharply tilt the political terrain for the 2012 election. Already 19 new laws and two new executive actions are in place. At least 42 bills are still pending, and at least 68 more were introduced but failed. Already, it is clear that:

- These new laws could make it significantly harder for more than five million eligible voters to cast ballots in 2012.
- The states that have already cut back on voting rights will provide 171 electoral votes in 2012 – 63 percent of the 270 needed to win the presidency.
- Of the 12 likely battleground states, as assessed by an August *Los Angeles Times* analysis of Gallup polling, five have already cut back on voting rights (and may pass additional restrictive legislation), and two more are currently considering new restrictions.

States have changed their laws so rapidly that no single analysis has assessed the overall impact. It is too early to exactly quantify how the changes will impact voter turnout, but we know they will be a hindrance to many voters at a time when the United States continues to turn out less than two thirds of its eligible citizens in presidential elections and less than half in midterm elections.

Read the full report, *Voting Law Changes in 2012*, by the Brennan Center's Wendy R. Weiser and Lawrence Norden.

MORE THAN 5 MILLION VOTERS IMPACTED?

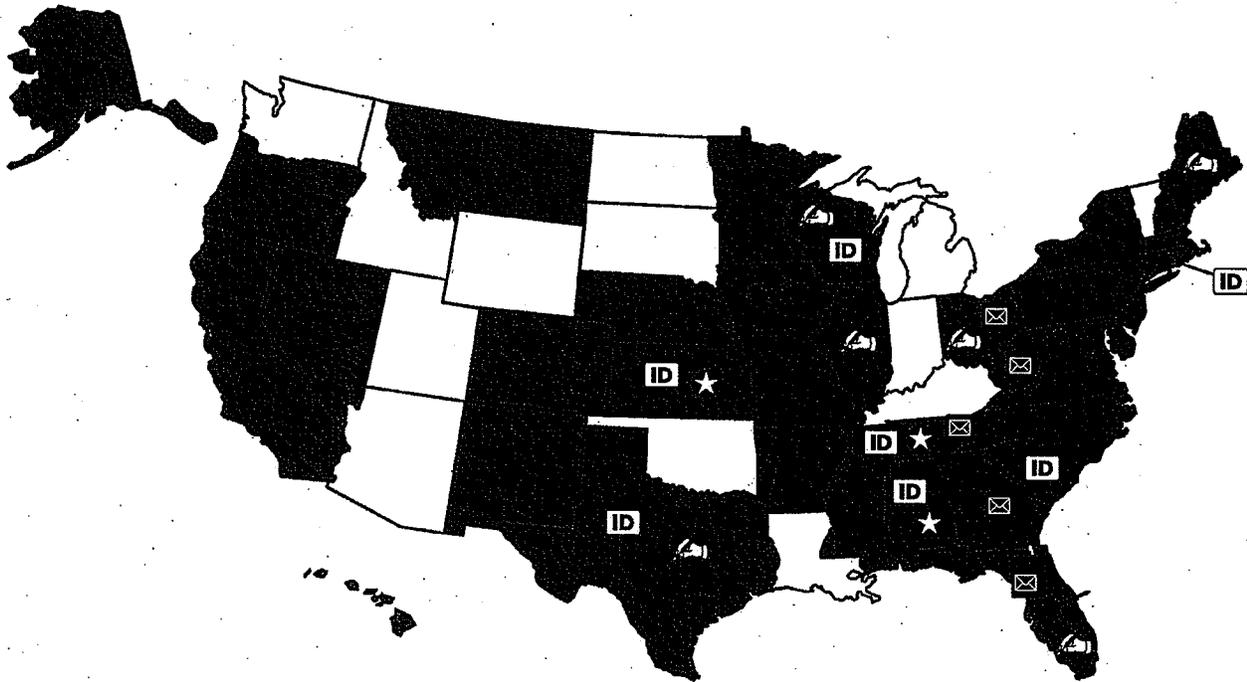
We estimate more than 5 million voters could be affected by the new laws, based on six key numbers.

- 1. 3.2 million voters affected by new photo ID laws.** New photo ID laws for voting will be in effect for the 2012 election in five states (Kansas, South Carolina, Tennessee, Texas, Wisconsin), which have a combined citizen voting age population of just under 29 million. 3.2 million (11 percent) of those potential voters do not have state-issued photo ID. Rhode Island voters are excluded from this count, because Rhode Island's new law's requirements are significantly less onerous than those in the other states.
- 2. 240,000 additional citizens and potential voters affected by new proof of citizenship laws.** New proof of citizenship laws will be in effect in three states (Alabama, Kansas, Tennessee), two of which will also have new photo ID laws. Assuming conservatively that those without proof of citizenship overlap substantially with those without state-issued photo ID, we excluded those two states. The citizen voting age population in the remaining state (Alabama) is 3.43 million; 240,000 (7 percent) of those potential voters do not have documentary proof of citizenship.
- 3. 202,000 voters registered in 2008 through voter registration drives that have now been made extremely difficult or impossible under new laws.** Two states (Florida and Texas) passed laws restricting voter registration drives, causing all or most of those drives to stop. In 2008, 2.13 million voters registered in Florida and, very conservatively, at least 8.24 percent or 176,000 of them did so through drives. At least 501,000 voters registered in Texas, and at least 5.13 percent or 26,000 of them did so via drives.
- 4. 60,000 voters registered in 2008 through Election Day voter registration where it has now been repealed.** Maine abolished Election Day registration. In 2008, 60,000 Maine citizens registered and voted on Election Day.
- 5. One to two million voters who voted in 2008 on days eliminated under new laws rolling back early voting.** The early voting period was cut by half or more in three states (Florida, Georgia and Ohio). In 2008, nearly 8 million Americans voted early in these states. An estimated 1 to 2 million voted on days eliminated by these new laws.
- 6. At least 100,000 disenfranchised citizens who might have regained voting rights by 2012.** Two states (Florida and Iowa) made it substantially more difficult or impossible for people with past felony convictions to get their voting rights restored. Up to one million people in Florida could have benefited from the prior practice; based on the rates of restoration in Florida under the prior policy, 100,000 citizens likely would have gotten their rights restored by 2012. Other voting restrictions passed this year that are not included in this estimate.

THE WAVE OF NEW LAWS

- **Photo ID laws.** At least thirty-four states introduced legislation that would require voters to show photo identification in order to vote. Photo ID bills were signed into law in seven states: Alabama, Kansas, Rhode Island, South Carolina, Tennessee, Texas, and Wisconsin. By contrast, before the 2011 legislative session, only two states had ever imposed strict photo ID requirements. The number of states with laws requiring voters to show government-issued photo identification has quadrupled in 2011. To put this into context, 11 percent of American citizens do not possess a government-issued photo ID; that is over 21 million citizens.
- **Proof of citizenship laws.** At least twelve states introduced legislation that would require proof of citizenship, such as a birth certificate, to register or vote. Proof of citizenship laws passed in Alabama, Kansas, and Tennessee. Previously, only two states had passed proof of citizenship laws, and only one had put such a requirement in effect. The number of states with such a requirement has more than doubled.
- **Making voter registration harder.** At least thirteen states introduced bills to end highly popular Election Day and same-day voter registration, limit voter registration mobilization efforts, and reduce other registration opportunities. Maine passed a law eliminating Election Day registration, and Ohio ended its weeklong period of same-day voter registration. Florida, Illinois and Texas passed laws restricting voter registration drives, and Florida and Wisconsin passed laws making it more difficult for people who move to stay registered and vote.
- **Reducing early and absentee days.** At least nine states introduced bills to reduce their early voting periods, and four tried to reduce absentee voting opportunities. Florida, Georgia, Ohio, Tennessee, and West Virginia succeeded in enacting bills reducing early voting.
- **Making it harder to restore voting rights.** Two states—Florida and Iowa—reversed prior executive actions that made it easier for citizens with past felony convictions to restore their voting rights, affecting hundreds of thousands of voters. In effect, both states now permanently disenfranchise most citizens with past felony convictions.

STATES WHERE VOTING CHANGES WERE PURSUED AND TYPES OF CHANGES ENACTED



-  Legislation introduced
-  Photo ID requirements passed
-  Proof of citizenship passed
-  Restrictions on voter registration passed
-  Restrictions on early/absentee voting passed
-  Executive action making it harder to restore voting rights

The Washington Post

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How states are rigging the 2012 election

By **E.J. Dionne Jr.**, Published: June 19

An attack on the right to vote is underway across the country through laws designed to make it more difficult to cast a ballot. If this were happening in an emerging democracy, we'd condemn it as election-rigging. But it's happening here, so there's barely a whimper.

The laws are being passed in the name of preventing "voter fraud." But study after study has shown that fraud by voters is not a major problem — and is less of a problem than how hard many states make it for people to vote in the first place. Some of the new laws, notably those limiting the number of days for early voting, have little plausible connection to battling fraud.

These statutes are not neutral. Their greatest impact will be to reduce turnout among African Americans, Latinos and the young. It is no accident that these groups were key to Barack Obama's victory in 2008 — or that the laws in question are being enacted in states where Republicans control state governments.

Again, think of what this would look like to a dispassionate observer. A party wins an election, as the GOP did in 2010. Then it changes the election laws in ways that benefit itself. In a democracy, the electorate is supposed to pick the politicians. With these laws, politicians are shaping their electorates.

Paradoxically, the rank partisanship of these measures is discouraging the media from reporting plainly on what's going on. Voter suppression so clearly benefits the Republicans that the media typically report this through a partisan lens, knowing that accounts making clear whom these laws disenfranchise would be labeled as biased by the right. But the media should not fear telling the truth or standing up for the rights of the poor or the young.

The laws in question include requiring voter identification cards at the polls, limiting the time of early voting, ending same-day registration and making it difficult for groups to register new voters.

Sometimes the partisan motivation is so clear that if Stephen Colbert reported on what's transpiring, his audience would assume he was making it up. In Texas, for example, the law allows concealed handgun licenses as identification but not student IDs. And guess what? Nationwide exit polls show that John McCain carried households in which someone owned a gun by 25 percentage points but lost voters in households without a gun by 32 points.

Besides Texas, states that enacted voter ID laws this year include Kansas, Wisconsin, South Carolina and Tennessee. Indiana and Georgia already had such requirements. The Maine Legislature voted to end same-day voter registration. Florida seems determined to go back to the chaos of the 2000 election. It shortened the early voting period, effectively ended the ability of registered voters to correct their address at the polls and imposed onerous restrictions on organized voter-registration drives.

In 2008, the U.S. Supreme Court, by 6 to 3, upheld Indiana's voter ID statute. So seeking judicial relief may be difficult. Nonetheless, the Justice Department should vigorously challenge these laws, particularly in states covered by the Voting Rights Act. And the court should be asked to review the issue again in light of new evidence that these laws have a real impact in restricting the rights of particular voter groups.

"This requirement is just a poll tax by another name," state Sen. Wendy Davis declared when Texas was debating its ID law early this year. In the bad old days, poll taxes, now outlawed by the 24th Amendment, were used to keep African Americans from voting. Even if the Supreme Court didn't see things her way, Davis is right. This is the civil rights issue of our moment.

In part because of a surge of voters who had not cast ballots before, the United States elected its first African American president in 2008. Are we now going to witness a subtle return of Jim Crow voting laws?

Whether or not these laws can be rolled back, their existence should unleash a great civic campaign akin to the voter-registration drives of the civil rights years. The poor, the young and people of color should get their IDs, flock to the polls and insist on their right to vote in 2012.

If voter suppression is to occur, let it happen for all to see. The whole world, which watched us with admiration and respect in 2008, will be watching again.

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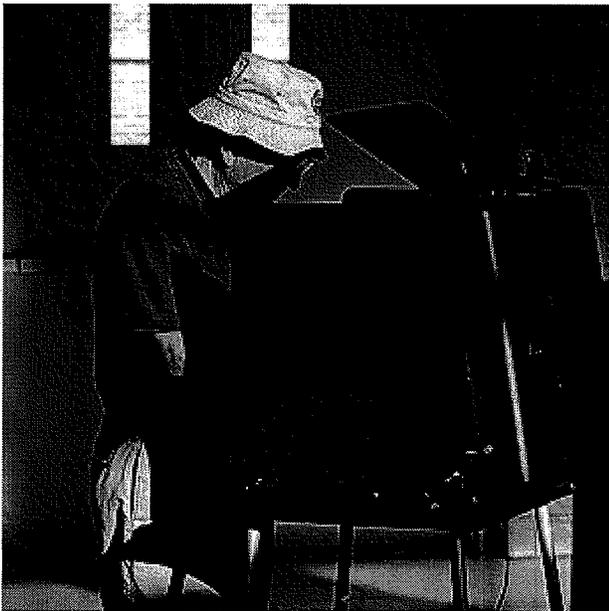
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Rolling Stone

The GOP War on Voting

In a campaign supported by the Koch brothers, Republicans are working to prevent millions of Democrats from voting next year

by: Ari Berman (published Aug 30, 2011)



A voter casts his ballot during the primary elections in Virginia
Matt McClain/For The Washington Post via Getty Images

As the nation gears up for the 2012 presidential election, Republican officials have launched an unprecedented, centrally coordinated campaign to suppress the elements of the Democratic vote that elected Barack Obama in 2008. Just as Dixiecrats once used poll taxes and literacy tests to bar black Southerners from voting, a new crop of GOP governors and state legislators has passed a series of seemingly disconnected measures that could prevent millions of students, minorities, immigrants, ex-convicts and the elderly from casting ballots. "What has happened this year is the most significant setback to voting rights in this country in a century," says Judith Browne-Dianis, who monitors barriers to voting as co-director of the Advancement Project, a civil rights organization based in Washington, D.C.

Republicans have long tried to drive Democratic voters away from the polls. "I don't want everybody to vote," the influential conservative activist Paul Weyrich told a gathering of evangelical leaders in 1980. "As a matter of fact, our leverage in the elections quite candidly goes up as the voting populace goes down." But since the 2010 election, thanks to a conservative advocacy group founded by Weyrich, the GOP's effort to disrupt voting rights has been more widespread and effective than ever. In a systematic campaign orchestrated by the American Legislative Exchange Council – and funded in part by David and Charles Koch, the billionaire brothers who bankrolled the Tea Party – 38 states introduced legislation this year designed to impede voters at every step of the electoral process.

All told, a dozen states have approved new obstacles to voting. Kansas and Alabama now require would-be voters to provide proof of citizenship before registering. Florida and Texas made it harder for groups like the League of Women Voters to register new voters. Maine repealed Election Day voter registration, which had been on the books since 1973. Five states – Florida, Georgia, Ohio, Tennessee and West Virginia – cut short their early voting periods. Florida and Iowa barred all ex-felons from the polls, disenfranchising thousands of previously eligible voters. And six states controlled by Republican governors and legislatures – Alabama, Kansas, South Carolina, Tennessee, Texas and Wisconsin – will require voters to produce a government-issued ID before casting ballots. More than 10 percent of U.S. citizens lack such identification, and the numbers are even higher among constituencies that traditionally lean Democratic – including 18 percent of young voters and 25 percent of African-Americans.

Taken together, such measures could significantly dampen the Democratic turnout next year – perhaps enough to shift the outcome in favor of the GOP. "One of the most pervasive political movements going on outside Washington today is the disciplined, passionate, determined effort of Republican governors and legislators to keep most of you from voting next time," Bill Clinton told a group of student activists in July. "Why is all of this going on? This is not rocket science. They are trying to make the 2012 electorate look more like the 2010 electorate than the 2008 electorate" – a reference to the dominance of the Tea Party last year, compared to the millions of students and minorities who turned out for Obama. "There has never been in my lifetime, since we got rid of the poll tax and all the Jim Crow burdens on voting, the determined effort to limit the franchise that we see today."

To hear Republicans tell it, they are waging a virtuous campaign to crack down on rampant voter fraud – a curious position for a party that managed to seize control of the White House in 2000 despite having lost the popular vote. After taking power, the Bush administration declared war on voter fraud, making it a "top priority" for federal prosecutors. In 2006, the Justice Department fired two U.S. attorneys who refused to pursue trumped-up cases of voter fraud in New Mexico and Washington, and Karl Rove called illegal voting "an enormous and growing problem." In parts of America, he told the Republican National Lawyers Association, "we are beginning to look like we have elections like those run in countries where the guys in charge are colonels in mirrored sunglasses." According to the GOP, community organizers like ACORN were actively recruiting armies of fake voters to misrepresent themselves at the polls and cast illegal ballots for the Democrats.

Even at the time, there was no evidence to back up such outlandish claims. A major probe by the Justice Department between 2002 and 2007 failed to prosecute a single person for going to the polls and impersonating an eligible voter, which the anti-fraud laws are supposedly designed to stop. Out of the 300 million votes cast in that period, federal prosecutors convicted only 86 people for voter fraud – and many of the cases involved immigrants and former felons who were simply unaware of their ineligibility. A much-hyped investigation in Wisconsin, meanwhile, led to the prosecution of only .0007 percent of the local electorate for alleged voter fraud. "Our democracy is under siege from an enemy so small it could be hiding anywhere," joked Stephen Colbert. A 2007 report by the Brennan

Center for Justice, a leading advocate for voting rights at the New York University School of Law, quantified the problem in stark terms. "It is more likely that an individual will be struck by lightning," the report calculated, "than that he will impersonate another voter at the polls."

GOP outcries over the phantom menace of voter fraud escalated after 2008, when Obama's candidacy attracted historic numbers of first-time voters. In the 29 states that record party affiliation, roughly two-thirds of new voters registered as Democrats in 2007 and 2008 – and Obama won nearly 70 percent of their votes. In Florida alone, Democrats added more than 600,000 new voters in the run-up to the 2008 election, and those who went to the polls favored Obama over John McCain by 19 points. "This latest flood of attacks on voting rights is a direct shot at the communities that came out in historic numbers for the first time in 2008 and put Obama over the top," says Tova Wang, an elections-reform expert at Demos, a progressive think tank.

No one has done more to stir up fears about the manufactured threat of voter fraud than Kansas Secretary of State Kris Kobach, a top adviser in the Bush Justice Department who has become a rising star in the GOP. "We need a Kris Kobach in every state," declared Michelle Malkin, the conservative pundit. This year, Kobach successfully fought for a law requiring every Kansan to show proof of citizenship in order to vote – even though the state prosecuted only one case of voter fraud in the past five years. The new restriction fused anti-immigrant hysteria with voter-fraud paranoia. "In Kansas, the illegal registration of alien voters has become pervasive," Kobach claimed, offering no substantiating evidence.

Kobach also asserted that dead people were casting ballots, singling out a deceased Kansan named Alfred K. Brewer as one such zombie voter. There was only one problem: Brewer was still very much alive. The *Wichita Eagle* found him working in his front yard. "I don't think this is heaven," Brewer told the paper. "Not when I'm raking leaves."

Kobach might be the gop's most outspoken crusader working to prevent citizens from voting, but he's far from the only one. "Voting rights are under attack in America," Rep. John Lewis, who was brutally beaten in Alabama while marching during the civil rights movement in the 1960s, observed during an impassioned speech on the House floor in July. "There's a deliberate and systematic attempt to prevent millions of elderly voters, young voters, students, minority and low-income voters from exercising their constitutional right to engage in the democratic process."

The Republican effort, coordinated and funded at the national level, has focused on disenfranchising voters in four key areas:

Barriers to Registration Since January, six states have introduced legislation to impose new restrictions on voter registration drives run by groups like Rock the Vote and the League of Women Voters. In May, the GOP-controlled legislature in Florida passed a law requiring anyone who signs up new voters to hand in registration forms to the state board of elections within 48 hours of collecting them, and to comply with a barrage of onerous, bureaucratic requirements. Those found to have submitted late forms would face a \$1,000 fine, as well as possible felony prosecution.

As a result, the law threatens to turn civic-minded volunteers into inadvertent criminals. Denouncing the legislation as "good old-fashioned voter suppression," the League of Women Voters announced that it was ending its registration efforts in Florida, where it has been signing up new voters for the past 70 years. Rock the Vote, which helped 2.5 million voters to register in 2008, could soon follow suit. "We're hoping not to shut down," says Heather Smith, president of Rock the Vote, "but I can't say with any certainty that we'll be able to continue the work we're doing."

The registration law took effect one day after it passed, under an emergency statute designed for "an immediate danger to the public health, safety or welfare." In reality, though, there's no evidence that registering fake voters is a significant problem in the state. Over the past three years, the Florida Department of Law Enforcement has received just 31 cases of suspected voter fraud, resulting in only three arrests statewide. "No one could give me an example of all this fraud they speak about," said Mike Fasano, a Republican state senator who bucked his party and voted against the registration law. What's more, the law serves no useful purpose: Under the Help America Vote Act passed by Congress in 2002, all new voters must show identity before registering to vote.

Cuts to Early Voting After the recount debacle in Florida in 2000, allowing voters to cast their ballots early emerged as a popular bipartisan reform. Early voting not only meant shorter lines on Election Day, it has helped boost turnout in a number of states – the true measure of a successful democracy. "I think it's great," Jeb Bush said in 2004. "It's another reform we added that has helped provide access to the polls and provide a convenience. And we're going to have a high voter turnout here, and I think that's wonderful."

But Republican support for early voting vanished after Obama utilized it as a key part of his strategy in 2008. Nearly 30 percent of the electorate voted early that year, and they favored Obama over McCain by 10 points. The strategy proved especially effective in Florida, where blacks outnumbered whites by two to one among early voters, and in Ohio, where Obama received fewer votes than McCain on Election Day but ended up winning by 263,000 ballots, thanks to his advantage among early voters in urban areas like Cleveland and Columbus.

That may explain why both Florida and Ohio – which now have conservative Republican governors – have dramatically curtailed early voting for 2012. Next year, early voting will be cut from 14 to eight days in Florida and from 35 to 11 days in Ohio, with limited hours on weekends. In addition, both states banned voting on the Sunday before the election – a day when black churches historically mobilize their constituents. Once again, there appears to be nothing to justify the changes other than pure politics. "There is no evidence that any form of convenience voting has led to higher levels of fraud," reports the Early Voting Information Center at Reed College.

Photo IDs By far the biggest change in election rules for 2012 is the number of states requiring a government-issued photo ID, the most important tactic in the Republican war on voting. In April 2008, the Supreme Court upheld a photo-ID law in Indiana, even though state GOP officials couldn't provide a single instance of a voter committing the type of fraud the new ID law was supposed to stop. Emboldened by the ruling, Republicans launched a nationwide effort to implement similar barriers to voting in dozens of states.

The campaign was coordinated by the American Legislative Exchange Council, which provided GOP legislators with draft legislation based on Indiana's ID requirement. In five states that passed such laws in the past year – Kansas, South Carolina, Tennessee, Texas and Wisconsin – the measures were sponsored by legislators who are members of ALEC. "We're seeing the same legislation being proposed state by state by state," says Smith of Rock the Vote. "And they're not being shy in any of these places about clearly and blatantly targeting specific demographic groups, including students."

In Texas, under "emergency" legislation passed by the GOP-dominated legislature and signed by Gov. Rick Perry, a concealed-weapon permit is considered an acceptable ID but a student ID is not. Republicans in Wisconsin, meanwhile, mandated that students can only vote if their IDs include a current address, birth date, signature and two-year expiration date – requirements that no college or university ID in the state currently meets. As a result, 242,000 students in Wisconsin may lack the

documentation required to vote next year. "It's like creating a second class of citizens in terms of who gets to vote," says Analiese Eicher, a Dane County board supervisor.

The barriers erected in Texas and Wisconsin go beyond what the Supreme Court upheld in Indiana, where 99 percent of state voters possess the requisite IDs and can turn to full-time DMVs in every county to obtain the proper documentation. By contrast, roughly half of all black and Hispanic residents in Wisconsin do not have a driver's license, and the state staffs barely half as many DMVs as Indiana – a quarter of which are open less than one day a month. To make matters worse, Gov. Scott Walker tried to shut down 16 more DMVs – many of them located in Democratic-leaning areas. In one case, Walker planned to close a DMV in Fort Atkinson, a liberal stronghold, while opening a new office 30 minutes away in the conservative district of Watertown.

Although new ID laws have been approved in seven states, the battle over such barriers to voting has been far more widespread. Since January, Democratic governors in Minnesota, Missouri, Montana, New Hampshire and North Carolina have all vetoed ID laws. Voters in Mississippi and Missouri are slated to consider ballot initiatives requiring voter IDs, and legislation is currently pending in Pennsylvania.

One of the most restrictive laws requiring voter IDs was passed in South Carolina. To obtain the free state ID now required to vote, the 178,000 South Carolinians who currently lack one must pay for a passport or a birth certificate. "It's the stepsister of the poll tax," says Browne-Dianis of the Advancement Project. Under the new law, many elderly black residents – who were born at home in the segregated South and never had a birth certificate – must now go to family court to prove their identity. Given that obtaining fake birth certificates is one of the country's biggest sources of fraud, the new law may actually prompt some voters to illegally procure a birth certificate in order to legally vote – all in the name of combating voter fraud.

For those voters who manage to get a legitimate birth certificate, obtaining a voter ID from the DMV is likely to be hellishly time-consuming. A reporter for the *Tri-State Defender* in Memphis, Tennessee – another state now mandating voter IDs – recently waited for four hours on a sweltering July day just to see a DMV clerk. The paper found that the longest lines occur in urban precincts, a clear violation of the Voting Rights Act, which bars states from erecting hurdles to voting in minority jurisdictions.

Disenfranchising Ex-Felons The most sweeping tactic in the GOP campaign against voting is simply to make it illegal for certain voters to cast ballots in any election. As the Republican governor of Florida, Charlie Crist restored the voting rights of 154,000 former prisoners who had been convicted of nonviolent crimes. But in March, after only 30 minutes of public debate, Gov. Rick Scott overturned his predecessor's decision, instantly disenfranchising 97,491 ex-felons and prohibiting another 1.1 million prisoners from being allowed to vote after serving their time.

"Why should we disenfranchise people forever once they've paid their price?" Bill Clinton asked during his speech in July. "Because most of them in Florida were African-Americans and Hispanics and would tend to vote for Democrats – that's why."

A similar reversal by a Republican governor recently took place in Iowa, where Gov. Terry Branstad overturned his predecessor's decision to restore voting rights to 100,000 ex-felons. The move threatens to return Iowa to the recent past, when more than five percent of all residents were denied the right to vote – including a third of the state's black residents. In addition, Florida and Iowa join Kentucky and Virginia as the only states that require all former felons to apply for the right to vote after finishing their prison sentences.

In response to the GOP campaign, voting-rights advocates are scrambling to blunt the impact of the new barriers to voting. The ACLU and other groups are challenging the new laws in court, and congressional Democrats have asked the Justice Department to use its authority to block or modify any of the measures that discriminate against minority voters. "The Justice Department should be much more aggressive in areas covered by the Voting Rights Act," says Rep. Lewis.

But beyond waging battles at the state and federal level, voting-rights advocates must figure out how to reframe the broader debate. The real problem in American elections is not the myth of voter fraud, but how few people actually participate. Even in 2008, which saw the highest voter turnout in four decades, fewer than two-thirds of eligible voters went to the polls. And according to a study by MIT, 9 million voters were denied an opportunity to cast ballots that year because of problems with their voter registration (13 percent), long lines at the polls (11 percent), uncertainty about the location of their polling place (nine percent) or lack of proper ID (seven percent).

Come Election Day 2012, such problems will only be exacerbated by the flood of new laws implemented by Republicans. Instead of a single fiasco in Florida, experts warn, there could be chaos in a dozen states as voters find themselves barred from the polls. "Our democracy is supposed to be a government by, of and for the people," says Browne-Dianis. "It doesn't matter how much money you have, what race you are or where you live in the country – we all get to have the same amount of power by going into the voting booth on Election Day. But those who passed these laws believe that only some people should participate. The restrictions undermine democracy by cutting off the voices of the people."

This story is from the September 15, 2011 issue of Rolling Stone.

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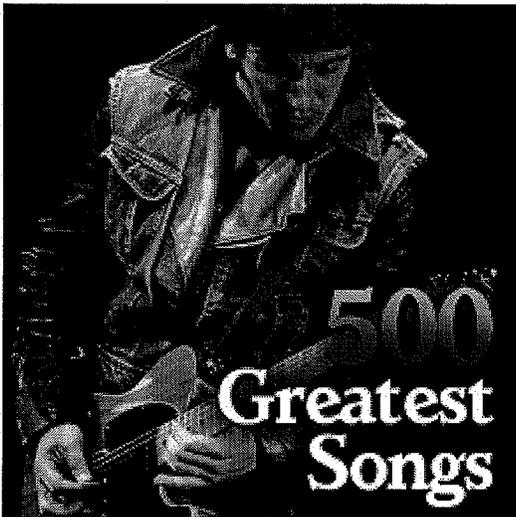
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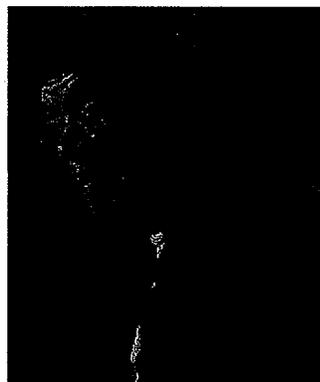
JUSTICE

96-Year-Old Tennessee Woman Denied Voter ID Because She Didn't Have Her Marriage License

Travis Waldron on Oct 5, 2011 at 12:30 pm

Caught up in the craze of preventing widespread voter fraud that doesn't really exist, Tennessee Republicans passed a voter identification law this year that they claimed would put an end to fraud and ensure fair elections. Like similar laws in other states, Tennessee's version has come under scrutiny from voting rights advocates, civil rights groups like the NAACP and ACLU, and even Democratic senators, who oppose the laws because they will disenfranchise poor, elderly, and minority voters who are less likely to have photo IDs.

The state now has evidence that that will be the case. Dorothy Cooper, a 96-year-old Chattanooga resident who says she has voted in every election but one since she became eligible to vote, wanted to ensure she'd have the necessary ID to vote in next year's elections, when Tennessee's law goes into effect. But when she went to apply for the ID, she was denied, the Chattanooga Times Free Press reports:



Dorothy Cooper (Photo Credit: Chattanooga Times Free Press)

That morning, Cooper slipped a rent receipt, a copy of her lease, her voter registration card and her birth certificate into a Manila envelope. Typewritten on the birth certificate was her maiden name, Dorothy Alexander.

"But I didn't have my marriage certificate," Cooper said Tuesday afternoon, **and that was the reason the clerk said she was denied a free voter ID** at the Cherokee Boulevard Driver Service Center.

"I don't know what difference it makes," Cooper said.

Cooper doesn't have a driver's license — she never learned to drive — and has never needed identification to vote, and her lack of a valid marriage license is likely due to the fact that she's outlived two husbands. Under the Tennessee law, Cooper will still be able to vote via absentee ballot, which does not require photo ID. But standing outside her normal voting precinct, Cooper told the Times Free Press she will miss going there to vote. "We always come here to vote," Cooper said. "The people who run the

polls know everybody here."

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91-Year-Old Murfreesboro Woman Told She Must Stand in Long Line to Get Photo ID to Vote

October 21, 2011 by [Mary Mancini](#)
Filed under [Fair Elections](#), [Recent Blog Posts](#)

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The [Daily News Journal](#) in Murfreesboro writes about another elderly victim of the government-issued photo ID to vote law:

MURFREESBORO — Ninety-one-year-old Virginia Lasater has voted and worked in campaigns for some 70 years. But Wednesday she ran head-long into the barrier Tennessee's new voter photo ID law is throwing up for some elderly people.

Recently moved to Murfreesboro from her farm in Lewisburg to live with son, Richard Lasater, she registered to vote Wednesday at the Rutherford County Election Commission office but that afternoon found herself facing long lines at the driver's license testing center in Murfreesboro. She's never had a photo ID on her license, even though she's still capable of driving and goes to Sunday school.

Aided by a walking cane to get around, she quickly decided she couldn't stand up long enough to wait and her son could find no chairs available for her to sit. Richard estimated at least 100 people were in the building, and workers were "way overworked and way understaffed." He was told at the help desk there was nothing they could do but wait.

They left, upset about the law and the long lines.

Read the rest... and then [sign the petition](#) to repeal the mandate that requires a government-issued photo ID to vote.

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JUSTICE

Tennessee Agency Charges 86-Year Old Veteran An Unconstitutional Poll Tax To Obtain Voter ID

Tanya Somanader on Oct 26, 2011 at 12:20 pm

is the second installment in an ongoing series on voting rights leading up to Election Day 2011.

pointing to a problem that doesn't exist, Tennessee Republicans created a voter ID law this year which, they say, will ensure that only those eligible to vote can do so. As predicted, the law is disenfranchising the poor, elderly, and minority voters, including a 96-year-old African-American woman, a 91-year old woman, and now, a 86-year old veteran.



World War II veteran Darwin Spinks went to a testing center last month to get a photo ID for voting purposes. Under the law, any resident without a photo ID is supposed to get one free of charge. But when Spinks asked for an ID, he was told he had to pay an \$8 fee:

Spinks said Tuesday he needed the photo because when his driver's license with a photo expired the last time, the driver testing center issued him a new license without a photo on it. State law allows people over 60 to get a non-photo driver's license.

The retired print shop worker who moved here 17 years ago said he told people at the driver center he wanted an ID for voting purposes. He was sent from one line to another to have a picture taken, then was charged.

"I said, 'You mean I've got to pay again?' She says, 'Yes,'" explained Spinks, a resident of County Farm Road, who was stationed on the USS Goshen in World War II and was called to duty again for the Korean War.

Forcing an American citizen to pay in order to vote is a clear violation of the constitution's 24th Amendment: "The right of citizens of the United States to vote in any primary or the other election for President or Vice President, for electors for President or Vice President, or for Senator or Representative in Congress, shall not be denied or abridged by the United States or any State by reason of failure to pay any poll tax or other tax." The amendment was specifically enacted in 1962 to end the poll tax, a fee that was

used to prevent the black population from voting.

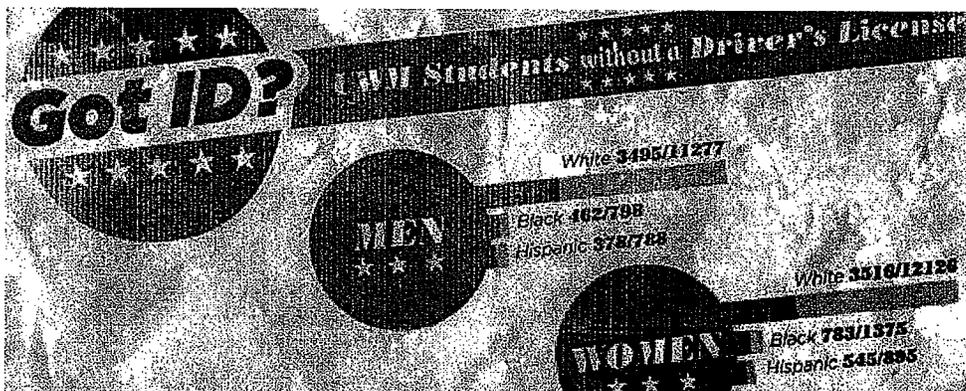
The Tennessee Department of Safety and Homeland Security said it will send Spinks a letter and an affidavit to sign which states that he does not have a valid government-issued photo ID. Only then will they refund his \$8. "If he came in for a photo ID for voting purposes, he should not have been charged," the department stated.

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REPORTING

Wisconsin Student Newspaper: 'Can Students Vote?' With Voter ID Law

Posted Thursday, September 29, 2011 in Reporting by
Brian Stewart



SOURCE: UWM Post / Russell Fritchard

The UWM Post showed the impact of the Voter ID law on students with the graphic above—showing the number of students without a state-issued driver's license compared with enrollment for different demographics.

You know the thought of disenfranchising young voters is serious when the student newspaper runs this headline: "Can students vote in the next election?"

Frightening, right?

Unfortunately, in states like Wisconsin, where the aforementioned story ran, that's a serious question.

The UWM Post, an independent weekly newspaper for the University of Wisconsin—Milwaukee community, was forced to address the issue of students' voting rights after the state Legislature passed one of the nation's most restrictive Voter ID laws.

Students face a direct threat as the state's law only accepts a certain kind of student IDs; none of the IDs used in the University of Wisconsin system currently qualify.

At the Milwaukee campus, more than 9,000 students—nearly a third of the school's enrollment—could be disenfranchised by the law, according to studies cited by the *UWM Post*. The newspaper's estimates are based on enrollment figures and statistics for driver's license-carrying young Americans. They report:

Based on previous studies, *The UWM Post* estimates that 9,179 students, approximately 30 percent of the campus, do not have valid, state-issued driver's licenses, a prerequisite to voting in upcoming elections.

Black students ages 18 to 24 will be impacted most by the Voter ID Bill, on average being 27.5 percent less likely than white students to have a Wisconsin driver license, according to a 2005 study conducted by UWM's Employment and Training Institute.

The UWM Post showed the impact of the Voter ID law on students with the graphic above—showing the number of students without a state-issued driver's license compared with enrollment for different demographics.

While some students may have other forms of state-issued IDs, many students enroll from out-of-state but are still entitled to vote where they attend school. And if the school IDs aren't valid, out-of-staters likely won't have another form of Wisconsin ID.

University of Wisconsin officials have been exploring ways to update student IDs before elections; in order to comply with the law, student IDs must have an issue date, an expiration date, and the student's signature. Officials told *The UWM Post* that stickers with the necessary information are a likely solution.

Julio Guerrero, the chair of the Latino Caucus of the state's Democratic Party and a junior at the University of Wisconsin, told the paper that both Latino voters and students would be impacted.

"In my opinion, it is like a poll-tax, and I think it affects our community negatively," Guerrero said.

Brian Stewart is a journalism network associate at Campus Progress.

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<http://www.news-journalonline.com/news/local/southeast-volusia/2011/10/27/senator-steps-in-over-voting-law-teachers-plight.html>

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Senator steps in over voting law, teacher's plight

By DEREK CATRON, Staff Writer



U.S. Sen. Bill Nelson reviews provisions of a Florida voting law Wednesday in his Orlando office as New Smyrna Beach High School civics teacher Jill Cicciarelli explains how she ran afoul of it. (N-J | Derek Catron)

ORLANDO -- Jill Cicciarelli's students got a real-life civics lesson Wednesday when U.S. Sen. Bill Nelson quizzed them on the state law their teacher violated in helping them register to vote.

Predictably, the New Smyrna Beach High School students aren't fans of the law. Nelson, who sent a letter to Gov. Rick Scott this week asking that he make repealing or amending the law a priority, likes it even less.

"It is voter suppression," Nelson told the students, whom he'd invited to his Orlando office after reading of their teacher's plight in Sunday's News-Journal. "If this can happen to a teacher and her students, then this is not a good thing."

What happened is that Cicciarelli helped her 17-year-old seniors with the paperwork to preregister for the voting rolls, as she does every year. She'd been on maternity leave in the spring when the Legislature passed a voting law that, among other things, requires third parties to register with the state before they help sign up new voters.

The law has proved so daunting that the League of Women Voters suspended voter registration efforts in Florida for fear of exposing volunteers to up to \$1,000 in fines. The American Civil Liberties Union has challenged it in court, and a federal court is reviewing the most controversial provisions of the law before they can take effect in all Florida counties.

Republican lawmakers who backed the rules said they were necessary to reduce voter fraud. Critics said the law would suppress voter participation.

Nelson, who testified against the law before a congressional hearing, hopes lawmakers change it. Among some of the other controversial elements, it reduces early voting from 14 to eight days and requires third-party groups to submit new-voter registrations within 48 hours.

"This, to me, is a direct assault on democracy," Nelson said, telling the students he planned to share their stories when he next speaks with the governor. "If he really wants to be a hero, he needs to go out and tell the Legislature to change this law."

Another provision of the law that Nelson predicted would affect college-age voters the most requires that voters who move to a different county must use a provisional ballot if they try to change their address on Election Day.

Young people are also more likely to seek out help before registering to vote, the students told Nelson -- help that might not be there if teachers and volunteer groups are intimidated by the law.

"If the restrictions are enforced, the youth, especially, will be suppressed from voting," senior Jordan Walsh told Nelson.

"It's going to have a strong effect on the youth," senior Caitlyn Zona added. "If we're the future of our country, it's going to hurt us in the long run."

Volusia County Supervisor of Elections Ann McFall had to report Cicciarelli to the state. Though the registrations themselves were fine, the teacher was in violation of the law because McFall's office received the registrations late and Cicciarelli wasn't a registered third party. State officials are reviewing the case; they've issued only warnings since the law took effect in July, with no incident rising to the level where fines had to be assessed.

Yet even the threat of that was enough to move McFall to write an editorial in Sunday's News-Journal criticizing the law as "egregious" and "unenforceable." Her phone's been ringing off the hook since, she said Wednesday. "I think I struck a chord," she said.

McFall spoke with school officials this week about getting word out to more teachers to avoid a repeat of the problems at New Smyrna Beach. Elections officials had reached out to teachers in the past with offers to speak to students about voting procedures.

"There's no formalized process (yet)," McFall said. "If nothing else, at least this has raised awareness of the need."

Cicciarelli was glad for that. She said next year an elections office representative would come to the school to help students register. She's just glad to know her students' registration forms went through without a hitch -- if you don't count reading that your teacher is a law-breaker as a hitch.

"The inbox began filling up" after her photo appeared on the front page Sunday, she told Nelson. "My students were concerned that I'd been arrested or sent to Washington, D.C."

Getting to the Orlando office of a senator with her students was more than enough for a civics teacher, she said. "How can you pass that up?"

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